

REMARKS

Claims 1-60 remain pending in this application. In the Office Action dated July 24, 2008, the Examiner took the following actions¹:

(a) rejected claims 1-20 under 35 U.S.C. 101, as directed to non-statutory subject matter;

(b) rejected claims 1-17, 20-37, 40-57, and 60 under 35 U.S.C. 102(e), as being anticipated by Wilkinson et al. (U.S. Patent No. 7,016,936, "*Wilkinson*"); and

(c) rejected claims 18-19, 38-39, and 58-59 under 35 U.S.C. 103(a) as being unpatentable over *Wilkinson*.

Claims 1, 2, 7, 9-10, 13, 15-17, 21-22, 27, 29, 35, 36, 37, 41, 42, 49, and 55-57 have been amended.² No new matter is included in these amendments.

(a) Rejection of claims 1-20 under 35 U.S.C. 101

Claims 1-20 have been rejected under 35 U.S.C. 101 as allegedly being directed to non-statutory subject matter. Although Applicants maintain that the claims as filed fall squarely within the scope of section 101, Applicants have amended the independent claims in order to conform to current U.S.P.T.O. practice and to advance prosecution.

The Office Action alleged that claim 1 is "not sufficiently tied to an apparatus, such as a computer, and/or do not transform the underlying subject matter (from your claim) to a different state ." Office Action, p. 2. Applicants respectfully disagree with the

¹ The Office Action contains a number of statements reflecting characterizations of the related art and claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

² Claims were amended solely to expedite prosecution. Applicant preserves the right to pursue the original subject matter in subsequent applications.

Office Action. According to the Federal Circuit, a method is patentable if it is "tied to a particular apparatus or . . . operated to change materials to a 'different state or thing.'"

In re Comiskey, 499 F.3d 1365, 1376 (Fed. Cir. 2007). Claim 1 is tied to particular devices, such as a plurality of communication channels and a central, channel-independent processing engine. Therefore, Applicants submit that claim 1, and its dependent claims 2-20, recite statutory subject matter. *See In re Comiskey*, 499 F.3d at 1379-80.

Since claims 1-20 all recite statutory subject matter, the section 101 rejection should be withdrawn.

(b) Rejection of claims 1-17, 20-37, 40-57, and 60 under 35 U.S.C. 102(e)

Claims 1-17, 20-37, 40-57, and 60 have been rejected as allegedly being anticipated by *Wilkinson*. Based on the foregoing amendments and the arguments set forth during the October 16, 2008 Interview, Applicants respectfully traverse this rejection.

In order to anticipate amended claims 1, 21, and 41, the *Wilkinson* reference must disclose each and every element of those claims. *See* M.P.E.P. 2131. But, as Applicants argue below, *Wilkinson* does not anticipate claims 1, 21, and 41 because it fails to disclose several elements of those claims, as amended.

The Office Action summarized the pending claims by grouping together independent claims 1, 21, and 41. Amended claims 1, 21, and 41 each require "a plurality of different types of communication channels" in combination with "a central, channel-independent processing engine," among other things. *Wilkinson* fails to teach or suggest at least these elements as recited in claims 1, 21, and 41.

The Office Action cited *Wilkinson* as teaching a “rules engine [that] is independent of and consistent for a plurality of channels.” Office Action at p. 8. However, the reference only teaches that “an interaction motivation plan” can include “multiple constituent interaction plans” (column 5, lines 53-55). The Office Action further cited *Wilkinson* as teaching, among other things, a “central, channel-independent rules engine.” Office Action at 8. But the cited portion (column 9, line 26 to column 10, line 5) is unrelated to a central, channel independent engine. Indeed, no portion of *Wilkinson* teaches the limitation of using “a central, channel-independent processing engine.” Paragraph 79 of the present application describes an exemplary benefit of this feature, that “rules can be centrally stored ... and maintained.” This helps “to deliver insight driven sales, service, and marketing consistently across contact channels.” *Id.*

Since *Wilkinson* does not teach using a central, channel-independent processing engine for a plurality of different types of communication channels, the rejection of claims 1, 21, and 41 under 35 U.S.C. 102(e) should be withdrawn.

The Examiner rejected claims 2-17, 20, 22-37, 40, 42-57, and 60 as anticipated under 35. U.S.C. 102(e) by *Wilkinson* as well. Since these are all dependent claims that incorporate the individual claim elements discussed above, these dependent claims all recite claim elements not disclosed in *Wilkinson*. Accordingly, these dependent claims are not anticipated, and the rejection of claims 2-17, 20, 22-37, 40, 42-57, and 60 under 35 U.S.C. 102(e) should be withdrawn.

(c) Rejection of claims 18-19, 38-39, and 58-59 under 35 U.S.C. 103(a)

The Examiner rejected claims 18-19, 38-39, and 58-59 under 35 U.S.C. 103 as allegedly obvious over *Wilkinson*. “[T]he framework for objective analysis for

determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art." M.P.E.P. § 2141(II). "The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." M.P.E.P. § 2141(III). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." M.P.E.P. § 2141(III). In the Office Action, "there must be "some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." M.P.E.P. § 2141(III).

Here, the differences between the claimed invention and the prior art have not been properly ascertained because the prior art lacks several elements discussed above. As a result, no rational underpinning to support the legal conclusion of obviousness has been provided. Accordingly, no reason has been clearly articulated as to why the prior art would have rendered the claimed invention obvious to one of ordinary skill in the art. Thus, the rejection of claims 18-19, 38-39, and 58-59 under 35 U.S.C. 103 should be withdrawn.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.


PATENT
Attorney Docket No. 10761.1460
Customer No. 81,331

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 23, 2008

By:



John S. Sieman
Reg. No. 61,064
(202) 408-4000